

Appln No. 10/714,462
Amdt date June 2, 2006
Reply to Office action of February 3, 2006

REMARKS/ARGUMENTS

This Amendment is submitted in response the Office action mailed February 3, 2006. Claims 2-7, 9-10 and 12 have been cancelled without prejudice. Claims 1, 11, 14-20, 22, 23 and 25 have been amended. Accordingly, claims 1, 8, 11 and 13-25 are presently in the application.

In accordance with the Examiner's suggestion on pages 2 and 3 of the Office action, the first sentence of the specification and pages 4, 8, 9, 10 and 14 of the specification have been amended to update priority information and to correct grammatical errors.

On pages 3-4 of the Office action, the specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. Claims 3-7 have been cancelled without prejudice. Claim 15 has been amended. Applicant notes, however, that claim 15 does not require the method steps to occur sequentially and accordingly, has deleted the sequential lettering in the claim and has expressly indicated where one step is required to follow another step. Claim 18 and 23 have been amended to remove the limitations of concern to the Examiner. In view of the above, Applicant respectfully submits that all claims are now entitled to the effective filing date of June 30, 1999.

On page 5 of the Office action, claims 3-7 and 15-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Alferness. Claims 3-7 have been cancelled without prejudice. Claims 15-25 have been amended and are now believed to be entitled to an effective filing date of June 30, 1999. Alferness has an effective filing date of May 14, 2001. Accordingly, Applicant respectfully requests that the rejection of claims 15-25 as being anticipated by Alferness be withdrawn.

On pages 6-8, claims 1, 2 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehra in view of Dahl. In addition, claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mehra in view of Dahl and further in view of Sullivan. Applicant respectfully traverses the rejection.

Claim 1 has been amended to recite that the "mitral valve annulus device is further configured to change from a deformed shape toward an unstressed shape having an arched configuration to reshape the mitral valve annulus when in the coronary sinus of the heart, and

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wherein the coronary sinus has a radius, the unstressed shape having a radius smaller than the radius of the coronary sinus." Neither Mehra nor Dahl teach or suggest this feature. Accordingly, claim 1 is believed to be patentable over the cited references.

Claims 2 and 8-14 depend from claim 1. Since claims 2 and 8-14 depend from claim 1 and because they contain additional limitations further distinguishing these claims from the cited prior art when considered as a whole, these claims are also believed to be patentable.

On page 2 of the Office action, the Examiner acknowledges that claims 1-25 were copied from U.S. Patent Application Publication No. 2002/0169504 A1, but that the claims that issued from the application into U.S. Patent No. 6,800,090 are not the same. Claim 1 of the '090 patent is set forth below with the differences between it and amended claim 1 of the present application highlighted:

1. An assembly for effecting the condition of a mitral valve annulus of a heart comprising:

a guide wire configured to be ~~fed into~~ advanced to the coronary sinus of the heart[:]; and

a resilient mitral valve annulus device configured to be deformed and ~~slidingly~~ received on the guide wire and advanced into the coronary sinus of the heart on the guide wire and that reshapes the mitral valve annulus when in the coronary sinus of the heart, wherein the mitral valve annulus device ~~has opposed ends and includes a guide wire engaging structure at at least one of the opposed ends, and wherein the mitral valve annulus device~~ is further configured to change from a deformed shape toward an unstressed shape having an arched configuration to reshape the mitral valve annulus when in the coronary sinus of the heart, and wherein the ~~mitral valve annulus coronary sinus~~ sinus has a radius, the unstressed shape having a radius smaller than the radius of the ~~mitral valve annulus coronary sinus~~.

New claim 26 is added and recites that the device is "resilient" and configured to return to its original shape "with sufficient force to reshape the mitral valve annulus and reduce a gap of a mitral valve in the mitral valve annulus when in the coronary sinus of the heart." Neither Mehra

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nor Dahl teach or suggest this feature. In Mehra, the electrode expands to an outer diameter "approximately equal to the inner diameter of the vessel." Col. 2, lines 30-36. In Dahl, the electrode "substantially corresponds with the diameter of the IVC whereby the periphery of the electrode is in contact with the interior wall of the IVC." Col. 3, lines 43-52. Neither reference describes the force applied to the vessel, much less a force sufficient to reshape a mitral valve annulus and reduce a gap of a mitral valve in the annulus. The electrodes merely contact the vessel, they are not intended to reshape adjacent tissue.

On April 6, 2006, a personal interview was conducted with Examiner Urmi Chattopadhyay. During the interview, claims 1 and 15 were discussed. The undersigned suggested limiting the radius of the device to be smaller than the radius of the mitral valve annulus. The undersigned also suggested adding structure to close the gap of the mitral valve in the mitral valve annulus. No agreement was reached. Applicant also noted that the cover sheet in the specification is one embodiment of the guide tube recited in claim 15. It was also discussed whether the method steps in claim 15 should be interpreted as consecutive. The undersigned wishes to thank the Examiner for time and attention devoted to the interview.

In view of the above, Applicant respectfully requests reconsideration of the application and the allowance of claims 1, 8, 11 and 13-25.

Respectfully submitted,
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